



MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # 149-2014

LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: April 30, 2014

SUBJECT: Noise Report: Q1-2014 (January – March 2014)

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This Letter to Commission (LTC) provides the Quarterly Noise Report for the period beginning January 1, 2014 through March 31, 2014 (Q1-2014). The data and analysis presented on this LTC reflects the enforcement efforts by the Code Compliance Department (Code) and is presented in accordance to the requirements delineated in the 2008 Administrative Guidelines.

I. Summary

Data analysis reflects that during Q1-2014 there were a total of 1,302 cases opened by Code. Of these:

- 39 cases were canceled by the complainant prior to the arrival of Code,
- 40 cases were voided due to error or referred erroneously to Code,
- 57 cases were deemed to be duplicate complaints,
- 5 cases were closed, or were not applicable to Code, and
- 113 were referred to and/or addressed by the Miami Beach Police Department.

That leaves 1,048 cases addressed by Code during the rating period. The 113 cases referenced above as being addressed by the Miami Beach Police Department (MBPD) was as a result of Code not operating in the early morning hours on Tuesdays through Thursdays between 1:00 AM to 6:00 AM, or Fridays and Mondays between 3:00 AM to 6:00 AM. On those instances, noise complaints are routed to the MBPD for handling. On Fridays and Saturdays, Code operates 24 hours and addresses all noise complaints. In addition to the referrals to MBPD, the data also reflects a high number of duplicate noise cases. The majority of these duplicate noise cases are related to a specific address that remains in litigation with its neighboring property and its residents call in noise complaints.

II. Analysis

In accordance with the 2008 Administrative Guidelines, the quarterly noise report reflects all legislative requirements, including but not limited to the total number of noise complaints received, cases opened, classification and outcome of each noise case, and analysis of noise case by type (commercial, residential, other). In addition, the attachments also reflect time of the day the noise complaint/case took place, day of the week and other information including disposition of cases appealed through the Special Master process. All these items are reflected in detail in Attachments A through C.

The analysis reflects that of a total of 1,048 cases with a disposition, 637 cases (60.8%) took place at residential properties; 275 cases (26.2%) were identified to have taken place in commercially zoned properties, and 136 cases (13.0%) took place within public property (reflected as "Other" in Attachment A). According to the data, of the 1,048 cases addressed by Code, 199 were deemed

valid, for an overall 19% validity rate. Further analysis, particularly for commercially zoned areas, the noise validity rate was 17.5%.

III. Highlights

The chart below provides a breakdown by case type for Q1-2014.

BREAKDOWN OF TOTAL CASES BY TYPE January 2014 – March 2014		
RESIDENTIAL	637	60.8%
COMMERCIAL	275	26.2%
OTHER	136	13.0%
TOTAL	1,048	100%

When Q1-2014 is compared to similar periods in 2013 and 2012, the analysis yields a decrease in the noise validity rate, including commercial noise cases. There are no anomalies explaining this decrease, other than having had an increase in calls that failed to meet the validity threshold (i.e. unusual, excessive, and unnecessary). The chart below provides detailed information regarding the reasons complaints were deemed invalid.

REASONS NOISE CASES (Residential & Commercial) DEEMED INVALID

849 NON-VALID CASES	TOTALS	Music/Noise lowered prior to arrival per complainant	No Access / Access code	No Noise AT ALL	Exception Granted	Not a Code Issue	Music/Noise Not Loud or Excessive	Not Loud or Excessive AND After 11PM - Not audible at 100ft.
	849	38	15	379	13	5	364	35
	PERCENTAGES	4.5%	1.8%	44.6%	1.5%	0.6%	42.9%	4.1%

Approximately 47% of the complaints (399 cases) failed to meet the threshold to consider the noise complaint valid. Other reasons why the complaint was determined to be invalid are as follows:

- 379 cases (44.6%), there was no noise identified upon CCOs arrival,
- 38 cases (4.5%) – the noise was lowered prior to the CCOs arrival as stated by the complainant,
- 15 cases (1.8%) – no access code was provided and CCO was unable to access and/or enter the property in order to assess the noise,
- 13 cases (1.5%), an exemption was granted for construction-related issues, and
- 5 cases (0.6%) were not a Code Compliance issue

IV. Response Time

During Q1-2014 data analysis on “arrival time” obtained from the Parking Department’s Computer Aided Dispatch (CAD), reflects a contrast between valid and non-valid response times, particularly for commercial cases, of about 15 minutes. On average, it took 26 minutes from complaint received by Parking Department’s Dispatch to Arrival Time by CCO; but there is approximately a five (5) minute difference between the aggregate average response time for valid (21:45) and non-valid (26:53). This difference is more drastic in the response time for valid commercial cases (14:39) versus non-valid (29:26).

Code continues to make a significant effort in responding to noise complaints within a 15-20 minute range. The chart below provides greater detail of CCO arrival time.

Average Time for Code Officer to Arrive (Q1-2014)					
Number of Cases*	Establishment Type	Average Time to Officer's Arrival	Status	Number of Cases*	Average Time from Call Received by Dispatch to Code Officer's Arrival
1000	Residential	0:26:17	VALID	116	0:23:55
			NON-VALID	500	0:26:50
	Commercial	0:27:24	VALID	35	0:14:39
			NON-VALID	220	0:29:26
	Other	0:22:00	VALID	17	0:21:35
			NON-VALID	112	0:22:04
All Cases		0:26:01	VALID	168	0:21:45
			NON-VALID	832	0:26:53

*Average Time Calculated using only those cases with valid time data for both "Time Call Received by Dispatch" and "Time of Arrival by CCO"

V. Major / Special Events

During the reporting period, the City had multiple major events including Spring Break and Winter Music Conference (WMC), which contributed to a higher number of noise complaints and calls for service. During the 17-day period between Thursday, March 13, 2014 and Sunday, March 30, 2014, records reflect that 343 noise cases were logged by Code Compliance. Of these, 33 were routed to MBPD, 33 were duplicates, seven (7) were canceled, and six (6) were voided. The remaining 264 cases handled by Code resulted in 63 (23.9%) valid cases and 201 (76.1%) determined to be invalid. As in past years, the high volume of calls and demand for service during WMC placed a great demand on Code resources, necessitating staff adjustments by deploying Code Compliance officers on 12-hour shifts (Alpha-Bravo-Charlie shifts).

VI. Special Master Appeal Hearings

As reflected in Florida Statutes 162 and City of Miami Beach Code, noise cases are appealable before a Special Master. Attachment C reflects the status of noise-related cases appealed and heard during this reporting period. Of the 36 cases reflected in this report, 16 cases have yet to be heard, and one (1) is set for continuance. The remaining 19 cases, had the following disposition:

- Eight (8) cases were adjudicated guilty,
- Two (2) cases were dismissed as the evidence failed to meet the "clear and convincing" threshold,
- Seven (7) were settled by the City Attorney's Office by way of an Agreed Order,
- One (1) was Nolle Prose by the City Attorney's Office due to the level of evidence, and
- One (1) was Administratively canceled due to deficiency in elements of the violation

It is important to denote that a 79% adjudication rate (15 of 19 possible cases) is the highest adjudicatory rate achieved by Code, and is directly related to increased training, oversight, supervision and accountability of staff.

VII. Public Discussions on Noise

In an effort to increase transparency and discuss pros and cons of the current noise process, the Administration held several public meetings to entertain suggestion for possible amendments to the current Noise Ordinance and Administrative Guidelines. Four (4) meetings were held with community leaders, businesses and stakeholders where dynamic discussions were held ranging a myriad of topics including but not limited to the use of technology, legal precedent, and other issues of concern. These meetings were co-chaired under the leadership of Vice-Mayor Micky Steinberg and Commissioner Joy Malakoff. Multiple recommendations from the participants are being currently being considered by the Administration.


JLM/JMJ/HC/RSA

Attachments

- Attachment A: Noise Case Data, Q1-2014
- Attachment B: Commercial Noise Case Data, Q1-2014
- Attachment C: Special Master Case Result Summary, Q1-2014

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ATTACHMENT A - Code Compliance

ALL CASES

Noise Data 01/01/2014 - 03/31/2014 (Q1-2014)

Total Number of Noise Complaint Cases Opened/Calls Received

Total Cases Opened	Less Voided, Canceled, Duplicate Complaints, Complaints not Applicable to Code Compliance, or Routed / Referred to PD	Total with Dispositions (Handled by Code Compliance) (Valid/Invalid)	Code or PD Initiated (Proactive)	Complaint Calls Received
1,302	254	1,048	21	1,027

**Canceled calls are cases canceled by the complainant prior to a Code Officer's arrival

*Voided cases are cases that were entered in error, etc.

Valid Violation Breakdown

Verbal	18	9.0%
Written Warning	131	65.8%
Violation	50	25.1%
Total Valid Cases	199	100%

Noise Cases by Type of Establishment

Total Cases				Valid		Non-Valid	
	Number of Cases	Percentage of All Cases		Number of Cases	Percentage of Cases	Number of Cases	Percentage of Cases
Residential	637	60.8%		128	20.1%	509	79.9%
Commercial	275	26.2%		48	17.5%	227	82.5%
Other	136	13.0%		23	16.9%	113	83.1%
Totals	1,048	100%		199	19.0%	849	81.0%

Residential = Apt, Condo, Single Family

Commercial = Bar, Club, Hotel, Hotel-Condo, Restaurant, Retail, Constr-Com

Other = Bandshell, Beach, Public Property, etc..

Total Cases				Valid Cases		Non-Valid Cases	
	Number of Cases	Percentage of All Cases		Number of Cases	Percentage of Cases	Number of Cases	Percentage of Cases
APT	320	30.5%		56	5.3%	264	25.2%
BAR	39	3.7%		10	1.0%	29	2.8%
CLUBS	17	1.6%		2	0.2%	15	1.4%
CONDO	180	17.2%		25	2.4%	155	14.8%
CONDO-HOTEL	25	2.4%		5	0.5%	20	1.9%
HOME	137	13.1%		47	4.5%	90	8.6%
OTHER	136	13.0%		23	2.2%	113	10.8%
RESTAURANT	45	4.3%		9	0.9%	36	3.4%
RETAIL	7	0.7%		1	0.1%	6	0.6%
HOTEL	142	13.5%		21	2.0%	121	11.5%
UNKNOWN	0	0.0%		0	0.0%	0	0.0%
Totals	1,048	100%		199	19.0%	849	81.0%

Disposition of All Noise Cases		#
Total Cases		1,302
	Canceled**	39
	Voided*	40
	Duplicate Complaint	57
	Not Applicable to Code Referred/Routed to PD	1
	Closed / ClosedSM	113
Total Valid and Non-Valid Cases (Handled by Code)		1,048
Valid Cases		199
Non-valid Cases		849

Noise Cases by Noise Type

Noise Type	TOTALS	Valid Cases	Non-valid Cases
LOUD MUSIC	658	131	527
LIVE ENTERTAINMENT	5	0.5%	50.3%
BARKING DOG	104	9.9%	0.5%
CROWD NOISE	0	0.0%	8.7%
CONSTRUCTION	265	25.3%	0.0%
OTHER	0	0.0%	214
HONKING CARS/ALARMS	16	1.5%	0.0%
Totals	1,048	100%	849

Call Time of Day / Day of Week

ALL CASES (VALID AND NON-VALID)

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	111	96	15
Tuesday	110	94	16
Wednesday	88	65	23
Thursday	127	86	41
Friday	163	92	71
Saturday	250	148	102
Sunday	199	148	51
Totals	1,048	729	319

VALID

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	28	25	3
Tuesday	24	21	3
Wednesday	11	7	4
Thursday	17	8	9
Friday	25	11	14
Saturday	59	33	26
Sunday	35	29	6
Totals	199	134	65

NON-VALID

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	83	71	12
Tuesday	86	73	13
Wednesday	77	58	19
Thursday	110	78	32
Friday	138	81	57
Saturday	191	115	76
Sunday	164	119	45
Totals	849	595	254

Call Time of Day - Residential vs Commercial

	Total	7a - 11p	11p - 7a (of the following morning)
RESIDENTIAL	637	428	209
COMMERCIAL	275	205	70
OTHER	136	96	40
Totals	1,048	729	319

Breakdown of Calls with Identified Complainants and with Anonymous Complainants						
	Total Cases		Valid Cases		Non-valid Cases	
<i>Totals</i>	1,048	100%	199	19.0%	849	81.0%
Anonymous Complainant	655	62.5%	106	10.1%	549	52.4%
Anonymous with Contact made	54	5.2%	17	1.6%	37	3.5%
Contact Information Provided	318	30.3%	56	5.3%	262	25.0%
Internal	21	2.0%	20	1.9%	1	0.1%

ATTACHMENT B - Code Compliance

COMMERCIAL NOISE CASES Noise Data 01/01/2014 - 03/31/2014 (Q1-2014)

Total Number of Noise Complaint Calls Received

Total Commercial Cases Opened	Less			Complaint Calls Received	Total Cases Handled by Code (Valid and Non-valid only)
	Code or PD Initiated (Proactive)	Less Voided, Canceled, Duplicate Complaints, Complaints not Applicable to Code Compliance	Less Routed / Referred to PD		
329	13	37	17	262	275

Disposition of All Commercial Noise Cases			
Type	#		%
Valid Cases	48		17.5%
Non-valid Cases	227		82.5%
Total Valid and Non-Valid Cases =			
	275		100%

Total Valid and Non-Valid Cases =

Valid Violation Breakdown

Verbal	12	25.0%
Written Warning	16	33.3%
Violation	20	41.7%
Total Valid Cases	48	100%

Noise Cases by Type of Establishment

Location Type	Totals	% of Commercial Cases (By Establishment Type)	Valid		Non-Valid	
BAR	39	14.2%	10	3.6%	29	10.5%
CLUBS	17	6.2%	2	0.7%	15	5.5%
CONDO-HOTEL	25	9.1%	5	1.8%	20	7.3%
RESTAURANT	45	16.4%	9	3.3%	36	13.1%
RETAIL	7	2.5%	1	0.4%	6	2.2%
HOTEL	142	51.6%	21	7.6%	121	44.0%
Total	275	100%	48	17.5%	227	82.5%

Noise Cases by Noise Type

Noise Type	Totals	% of Commercial Cases (By Type of Noise)	Valid		Non-valid	
LOUD MUSIC	172	62.5%	32	11.6%	140	50.9%
LIVE ENTERTAINMENT	0	0.0%	0	0.0%	0	0.0%
BARKING DOG	1	0.4%	0	0.0%	1	0.4%
CROWD NOISE	0	0.0%	0	0.0%	0	0.0%
CONSTRUCTION	101	36.7%	15	5.5%	86	31.3%
OTHER	0	0.0%	0	0.0%	0	0.0%
HONKING CARS/ALARMS	1	0.4%	1	0.4%	0	0.0%
Totals	275	100%	48	17.5%	227	82.5%

Time of Day / Day of Week of Call

ALL CASES (VALID AND NON-VALID)

	Total		7a - 11p		11p - 7a (of the following morning)	
Monday	33	12.0%	29	10.5%	4	1.5%
Tuesday	34	12.4%	29	10.5%	5	1.8%
Wednesday	23	8.4%	17	6.2%	6	2.2%
Thursday	34	12.4%	22	8.0%	12	4.4%
Friday	43	15.6%	25	9.1%	18	6.5%
Saturday	58	21.1%	40	14.5%	18	6.5%
Sunday	50	18.2%	43	15.6%	7	2.5%
Totals	275	100.0%	205	74.5%	70	25.5%

VALID

	Total		7a - 11p		11p - 7a (of the following morning)	
Monday	5	10.4%	3	6.3%	2	4.2%
Tuesday	12	25.0%	11	22.9%	1	2.1%
Wednesday	1	2.1%	0	0.0%	1	2.1%
Thursday	6	12.5%	2	4.2%	4	8.3%
Friday	4	8.3%	2	4.2%	2	4.2%
Saturday	13	27.1%	9	18.8%	4	8.3%
Sunday	7	14.6%	5	10.4%	2	4.2%
Totals	48	100.0%	32	67%	16	33%

NON-VALID

	Total		7a - 11p		11p - 7a (of the following morning)	
Monday	28	12.3%	26	11.5%	2	0.9%
Tuesday	22	9.7%	18	7.9%	4	1.8%
Wednesday	22	9.7%	17	7.5%	5	2.2%
Thursday	28	12.3%	20	8.8%	8	3.5%
Friday	39	17.2%	23	10.1%	16	7.0%
Saturday	45	19.8%	31	13.7%	14	6.2%
Sunday	43	18.9%	38	16.7%	5	2.2%
Totals	227	100%	173	76%	54	24%

Breakdown of Calls with Identified Complainants and with Anonymous Complainants

	Total Cases		Valid Cases		Non-valid Cases	
Total Complaints	275	100%	48	17.5%	227	82.5%
Anonymous Complainant	148	53.8%	22	8.0%	126	45.8%
Anonymous with Contact made	6	2.2%	1	0.4%	5	1.8%
Contact Information Provided	108	39.3%	12	4.4%	96	34.9%
Internal (Proactive)	13	4.7%	13	4.7%	0	0.0%

ATTACHMENT C - Q1 2014

Information on Disposition of Cases by Special Master and by Judicial (Q1-2014)							
	Date of Violation	Request Filed	Special Master Case Number	Code Case Number	Address	Name	Status
1	09/08/2013	09/27/2013	JC14000070	CE13013266	6261 Collins Ave	RP/WG Cabana Owners L.P.	SM 02/06/2014 - Adjudicated guilty of a First Offense. Fine of \$250 to be paid by 03/06/2014. Appeal with Miami-Dade County filed on 3/17/14.
2	09/09/2013	09/27/2013	JC14000071	CE13013314	6261 Collins Ave	RP/WG Cabana Owners L.P.	SM 02/06/2014 - Adjudicated guilty of a Second Offense. Fine of \$1,000 to be paid by 03/06/2014. Appeal with Miami-Dade County filed on 3/17/14
3	09/10/2013	09/27/2013	JC14000072	CE13013318	6261 Collins Ave	RP/WG Cabana Owners L.P.	SM 02/06/2014 - Adjudicated guilty of a Third Offense. Fine of \$2,000 to be paid by 03/06/2014. Appeal with Miami-Dade County filed on 3/17/14
4	09/20/2013	09/27/2013	JC14000073	CE13013637	6261 Collins Ave	RP/WG Cabana Owners L.P.	SM 02/06/2014 - Adjudicated guilty of a Fourth Offense. Fine of \$3,000 to be paid by 03/06/2014. Appeal with Miami-Dade County filed on 3/17/14
5	09/19/2013	09/27/2013	JC14000074	CE13013634	6261 Collins Ave	RP/WG Cabana Owners L.P.	SM 02/06/2014 - Adjudicated guilty of a Fifth Offense. Fine of \$5,000 to be paid by 03/06/2014. Appeal with Miami-Dade County filed on 3/17/14
6	10/06/2013	10/16/2013	JC14000098	CE14000188	1000 South Pointe Drive	La Piaggia, Inc	Request for a continuance. Scheduled to be heard on 05/22/2014
7	10/13/2013	10/22/2013	JC14000099	CE14000416	8109 Crespi Blvd	Pedro Garcia	SM 01/09/2014 - Violator not present at SM. Adjudicated Guilty of a First Offense. Fine of \$250 imposed and shall be paid by 03/12/2014.
8	10/13/2013	10/22/2013	JC14000100	CE14000403	136 Collins Ave	Amnesia International LLC / DBA Story	SM 03/13/2014 Settled by Agreed Order with City Attorney's Office. Adjudication of Guilt.
9	10/12/2013	10/23/2013	JC14000101	CE14000397	7300 Gary Ave	Ivy Swanes	SM 02/06/2014 - Written warning CE13010848 dismissed, reducing this First Offense to a Written warning.
10	10/27/2013	10/29/2013	JC14000106	CE14000899	1701 Collins Ave	1701 COLLINS (MIAMI) OPERATING COMPANY	SM 02/06/2014 - Nolpros/Settled by Agreed Order by City Attorney.
11	10/24/2013	01/01/2014	JC14000119	CE14000797	242 Washington Ave	Ibiza, 2, Inc / Richard Silverman	SM 03/13/2014 - Guilty of First Offense. Fine of \$250 to be paid by 4/23/2014.
12	11/10/2013	11/12/2013	JC14000120	CE14001299	1000 South Pointe Drive	La Piaggia, Inc	SM 03/13/2014 - Case voided by Code Compliance and removed from SM agenda.
13	11/03/2013	11/12/2013	JC14000121	CE14001113	1000 South Pointe Drive	La Piaggia, Inc	SM 05/22/2014
14	10/27/2013	11/12/2013	JC14000150	CE14000903	1685 Collins Ave	Beach Hotel Associates LLC, d/b/a Bianca Delano	SM 03/13/2014 - Case dismissed as City failed to meet the level of proof.
15	11/03/2013	11/12/2013	JC14000151	CE14001092	960 Ocean Drive	SOBE USA, LLC d/b/a Ocean's Ten	SM 03/13/2014 - Settlement made with City Attorney by way of Agreed Order; as follows: Written warning valid. No companion case. First Offense is valid. A fine of \$3,500 is assessed and to be paid by 4/7/2014. The second offense, third, fourth, fifth, sixth, and seventh are dismissed.
16	11/17/2013	11/25/2013	JC14000183	CE14001540			
17	11/02/2013	11/08/2013	JC14000188	CE14001070			
18	11/24/2013	12/02/2013	JC14000191	CE14001763			
19	01/19/2014	01/24/2014	JC14000246	CE14003654			
20	02/08/2014	02/14/2014	JC14000343	CE14004279			
21	12/06/2013	12/10/2013	JC14000194	CE14002134	1020 Ocean Drive	2K Cleveland Inc	SM 06/05/2014
22	01/01/2014	01/10/2014	JC14000241	CE14002988	27 Star Island Drive	Starboard Florida IV, LLC	SM 05/08/2014
23	01/09/2014	01/22/2014	JC14000242	CE14003271	6261 Collins Ave	RP/WG Cabana Owners L.P.	SM 02/06/2014 - Adjudicated guilty of Sixth Offense. A fine of \$5,000 is imposed and shall b paid by 3/6/2014.
24	01/18/2014	01/27/2014	JC14000247	CE14003599	7950 Abbott Ave	Adriana Fernandez	SM 05/08/2014
25	03/10/2013	02/06/2014	JC14000334	CE13006365	1200 Ocean Drive	Palace Foodbar, LLC	SM 05/08/2014
26	03/10/2014	02/06/2014	JC14000335	CE13006400	1200 Ocean Drive	Palace Foodbar, LLC	SM 05/08/2014
27	02/16/2014	02/21/2014	JC14000360	CE14004579	1720 Collins Ave	Catalina Dorset LLC dba Funku Sushi	SM 06/05/2014
28	02/18/2014	02/24/2014	JC14000361	CE14004631	4700 Bay Road	H G Tillman Consulting, Inc.	SM 06/05/2014
29	03/15/2014	03/24/2014	JC14000406	CE14005829	27 Star Island Drive	Starboard Florida IV, LLC	SM 07/03/2014
30	03/08/2014	03/13/2014	JC14000407	CE14005433	1677 Collins Ave	New National LLC	SM 07/03/2014
31	03/25/2014	04/01/2014	JC14000408	CE14006641	956 Washington Ave	Astor EB-5, LLC dba Hotel Astor	SM 07/03/2014
32	03/25/2014	04/01/2014	JC14000409	CE14006655	956 Washington Ave	Astor EB-5, LLC dba Hotel Astor	SM 07/03/2014
33	03/21/2014	04/02/2014	JC14000420	CE14006197	423 16th Street	MIAMI BEACH THEATER & SHOW DISTRICT ASSOCIATION, IN	SM 08/14/2014
34	03/29/2014	04/08/2014	JC14000421	CE14006897	1685 James Ave	Collins Hotel Associated LLC, dba The Gale Hotel	SM 08/14/2014
35	03/29/2014	04/08/2014	JC14000422	CE14006895	8010 Tatum Waterway	Joseph Maldonado	SM 08/14/2014
36	04/02/2014	04/06/2014	JC14000423	CE14007100	6330 Allison Road	Ali Matlick	SM 08/14/2014